

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NORTHEAST CONTROLS, INC.	:	CIVIL ACTION
and	:	
ST. PAUL MERCURY INSURANCE COMPANY	:	
	:	
v.	:	
	:	
FISHER CONTROLS INTERNATIONAL, LLC	:	NO. 1:06-CV-00412 (SLR)

**PLAINTIFFS' NORTHEAST CONTROLS, INC. and  
ST. PAUL MERCURY INSURANCE COMPANY  
MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiffs Northeast Controls, Inc. ("Northeast") and St. Paul Mercury Insurance Company ("St. Paul"), by and through Counsel, and pursuant to Fed. R. Civ. P. 56 request that this Honorable Court grant summary judgment in their favor and against Defendant Fisher Controls International, LLC ("Fisher"), as to all counts and claims, and in support thereof state the following, to wit:

1. This is a breach of contract action. Plaintiff Northeast Controls, Inc. is a sales representative for Defendant Fisher Controls International, LLC under a contract known as the Representative Agreement.
2. Plaintiff Northeast Controls, Inc. was sued in four actions alleging that a product known as a valve manufactured by defendant was defective.
3. The Representative Agreement required Defendant to defend and indemnify Plaintiff Northeast Controls, Inc., but Defendant refused to do so.
4. Accordingly, Plaintiff Northeast Controls, Inc. and its insurer, Plaintiff St. Paul Mercury Insurance Company, were forced to defend and resolve the lawsuits on their own. Plaintiffs expended \$1,207,833.50 in doing so.

5. For the reasons set forth in the accompanying brief, Plaintiffs demand full reimbursement of all sums expended, together with interest and costs to be determined.

6. As explained in the accompanying brief, Plaintiffs are entitled to judgment as a matter of law, and hereby move for Summary Judgment under Rule 56 of the Federal Rules of Civil Procedure.

WHEREFORE, for the reasons stated more fully in the accompanying Opening Brief in Support of Plaintiffs' Motion for Summary Judgment, Plaintiffs Northeast and St. Paul respectfully request that this Honorable Court grant summary judgment in their favor and against Defendant Fisher as to all counts and claims.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By: /s/ Thomas P. Wagner  
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*Counsel for Plaintiffs*

MARSHALL DENNEHEY WARNER  
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*Counsel for Plaintiffs*

***IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE***

NORTHEAST CONTROLS, INC.	:	CIVIL ACTION – LAW
and	:	
ST. PAUL MERCURY INSURANCE COMPANY	:	
	:	
	:	
v.	:	
	:	
	:	
FISHER CONTROLS INTERNATIONAL, LLC	:	NO. 1:06-CV-00412 (SLR)

**CERTIFICATE OF SERVICE**

Joseph Scott Shannon, Esquire, hereby certifies that on November 5, 2007, he caused true and correct copies of the foregoing *Motion for Summary Judgment and Opening Brief in Support Thereof* to be served upon the following persons in the manner indicated:

RIDDELL WILLIAMS, P.S.  
Patrick D. McVey, Esquire  
Daniel J. Gunter, Esquire  
1001 Fourth Avenue Plaza, Ste. 4500  
Seattle, WA 98154  
*Via 1<sup>st</sup> Class U.S. Mail,  
postage prepaid*

MARON MARVEL BRADLEY  
& ANDERSON, P.A.  
Paul A. Bradley, Esquire  
1201 North Market Street, Ste. 900  
Wilmington, DE 19801  
*Via e-filing and 1<sup>st</sup> Class U.S. Mail  
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MARSHALL DENNEHEY WARNER  
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*Counsel for Plaintiffs*

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NORTHEAST CONTROLS, INC. : CIVIL ACTION  
and :  
ST. PAUL MERCURY INSURANCE COMPANY :  
: :  
v. : :  
FISHER CONTROLS INTERNATIONAL, LLC : NO. 1:06-CV-00412 (SLR)

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007 having heard the Motion for Summary Judgment of Plaintiffs Northeast Controls, Inc. and St. Paul Mercury Insurance Company and any opposition thereto, IT IS HEREBY ORDERED that Plaintiffs' Motion for Summary Judgment is GRANTED and JUDGMENT is entered in favor of Plaintiffs Northeast Controls, Inc. and St. Paul Mercury Insurance Company and against Defendant Fisher Controls International, LLC in the amount of \$1,207,833.50, plus interest and costs, including attorneys' fees incurred in bringing this enforcement action, to be determined. Defendant's counterclaim against Plaintiffs is dismissed with prejudice.

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Honorable Sue L. Robinson

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NORTHEAST CONTROLS, Inc.; and )  
ST. PAUL MERCURY INSURANCE Co., )  
  )  
Plaintiffs,                         )      Civ. A. No. 06-412-SLR  
  )  
  )  
v.                                    )  
  )  
FISHER CONTROLS INTERNATIONAL, LLC, )  
  )  
  )  
Defendant.                         )

## **CERTIFICATE OF SERVICE**

TO: RIDDELL WILLIAMS  
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Daniel J. Gunter, Esquire  
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Seattle, WA 98154

MARON MARVEL BRADLEY  
& ANDERSON, P.A.  
Paul A. Bradley, Esquire  
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Wilmington, DE 19801

PLEASE TAKE NOTICE: On November 5, 2007, Northeast Controls, Inc. served the attached *Plaintiffs' Opening Brief in Support of their Motion for Summary Judgment Pursuant to Fed. R. Civ. P. 56* upon Defendant Fisher Controls, Inc. via e-filing and First Class U.S. Mail, postage prepaid, to the above-named persons.

# MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

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*/s/Thomas P. Wagner*

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*Of Counsel for Plaintiffs*

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Dated: November 5, 2007